



MARSH

MARSH SUPERMARKETS, 9800 CROSSPOINT BLVD., INDIANAPOLIS, IN 46256-3350

www.marsh.net

January 24, 2005

JOSEPH R. HEERENS
Senior Vice President
Government Affairs
PHONE: (317) 598-3500
FAX: (317) 594-2704
EMAIL: govjrh@marsh.net

The Honorable William T. Hawks
Under Secretary for Marketing and Regulatory Programs
U.S. DEPARTMENT OF AGRICULTURE
Country of Origin Labeling Program
Agricultural Marketing Service
Stop 0249, Room 2092-S
1400 Independence Avenue, SW
Washington, DC 20250-0249

Re: Comments on Interim Final Country of
Origin Labeling Regulation for Fish and
Shellfish (Docket No. LS-03-04)

Dear Secretary Hawks:

Marsh Supermarkets, Inc. ("Marsh"), is a public company based in Indianapolis, Indiana, currently operating approximately 120 supermarkets and 175 convenience stores in Indiana and Ohio. Marsh operates four (4) distribution centers and has approximately 16,000 employees. Marsh was founded in 1931 in Muncie, Indiana, and has a reputation for, and distinguishes itself with, outstanding service and quality.

Marsh is pleased to respond to the U.S. Department of Agriculture's ("USDA") request for comments on the interim final regulation for country of origin labeling for fish and shellfish. We respectfully request that you address two (2) issues in the final rule.

First, Marsh encourages you to simplify the recordkeeping provision in the final regulation. We believe that a complete record provided by the supplier directly with the product and held at store level until the product is sold should serve as the only record that should be maintained by grocery stores, including their corporate headquarters. A complete record would include: (i) the supplier's name and contact information; (ii) the type of seafood; (iii) the seafood's country of origin and method of production; and (iv) a lot code number or other unique identifier, such as a pack date or a "sell by" date, that would allow the supplier to locate records related to the specific product.

we value you

Letter to Honorable William T. Hawks
January 24, 2005
Page 2 of 2

Unlike retailers and distributors, the supplier has firsthand knowledge of the origin and the production of the seafood item and, therefore, is the only entity that can properly validate the origin and production claims made. After the seafood is harvested, its country of origin and method of production are fixed and cannot lawfully change. Therefore, we believe that it is not necessary for the food distribution chain to capture or maintain information as the product is transferred through the chain, provided that the product is directly accompanied by a complete record. Information which is provided directly from the supplier to the retailer is likely to be more consistently accurate since this system would eliminate the chance for errors that might otherwise occur when information is recorded and transmitted by intermediaries.

In addition, in the event that the supplier provides a complete record with each shipment, then USDA should have all of the necessary information to determine whether the claim required by the statute and made at store level is accurate, without having to trace the product back through each step of the distribution chain. This procedure would be more efficient and also conserve USDA's resources. Accordingly, we respectfully request that USDA allow a complete supplier record to serve as the only record necessary at store level, and remove the requirement for corporate or intermediary recordkeeping.

Second, the interim final rule becomes effective in approximately 65 days, or on April 4, 2005. It now appears that the final rule will be issued at about the same time that the interim final rule takes effect. Marsh takes its obligations seriously, and we certainly want to be in a position to implement the final rule in a timely and efficient manner. We are concerned that, considering the above, Marsh may not have the time to implement all of the requirements of the final rule by April 4, 2005. Therefore, we urge you to include a new, delayed effective date with the final rule.

Thank you for giving us the opportunity to comment on the interim final rule. We appreciate your attention to our comments.

Very truly yours,



Joseph R. Heerens

cc: Don E. Marsh, Chairman and CEO